

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 1 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF WEALTH-TAX

Versus

HUF OF KARTIKEYA V SARABHAI

Appearance:

MR BHARAT J. SHELAT, instructed by
MR MANISH R BHATT for Petitioner
MR D.A. MEHTA, MR.R.K. PATEL AND MR. B.D. KARIA
for MR KC PATEL for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

Date of decision: 06/02/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The Income Tax Appellate Tribunal, Ahmedabad has referred the following question for the opinion of this Court under Section 27(1) of the Wealth Tax Act, 1957:-

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the order passed by the Commissioner of Wealth Tax, under Section 25(2) of the Wealth Tax Act, 1957 was liable to be set aside?"

The Tribunal followed its decision dated 19.3.1981 in W.T.A No. 227/AHD/80 observing that the facts of the case and the issue involved in this matter were identical with the case decided by the Tribunal. A reference being Reference No. 37/82 was made from the decision in WTA 227/AHD/80 by the Tribunal and that reference has been disposed of by us today, following the decision of this Court in CWT Vs. Amichand C. Shah (H.U.F), reported in 218 ITR 659, in which the Court upheld the finding of the Tribunal that the valuation report which did not form part of the record of the proceedings before the WTO could not be taken into consideration by the Commissioner for the purpose of invoking jurisdiction under Section 25(2) of the Act. Following the said decision, we hold that the Tribunal was right in law in coming to the conclusion that the order of the Commissioner of Wealth Tax made under Section 25(2) was liable to be set aside. The question referred to us is therefore, answered in the affirmative and against the revenue. The reference stands disposed of accordingly with no order as to costs.
